BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF C A

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In the Matter of the Application of California-American Water Company (U 210 W) for an Order Authorizing it to Increase its Rates for Water Service in its Los Angeles District to Increase Revenues by $2,020,466 or 10.88% in the Year 2007; $634,659 or 3.08% in the Year 2008; and $666,422 or 3.14% in the Year 2009.	Application 06-01-005 (Filed January 9, 2006)

APPLICATION OF THE DIVISION OF RATEPAYER ADVOCATES FOR REHEARING OF DECISION 07-08-030

Pursuant to Rule 16.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), the Division of Ratepayer Advocates (DRA) files this Application for Rehearing of Decision (D.) 07-08-030, the Commission's *Opinion Adopting the Revenue Requirement for California-American Water Company (Los Angeles District)* in the general rate case (GRC) for California-American Water Company's (Cal-Am's) Los Angeles District.

DRA seeks rehearing on two substantive issues in D.07-08-030. First, D.07-08-030 expresses a "policy preference" for a regulatory accounting mechanism referred to as a Conservation Loss Adjustment Mechanism (CLAM).[1] Second, D.07-08-030 states that adoption of a CLAM for Cal-Am would not require an adjustment to the company's return on equity (ROE).[2] Rehearing of D.07-08-030 is warranted and necessary because there is no evidence in the record to support either the Commission's "policy preference" or the conclusion that a CLAM would not require an ROE adjustment, thus rendering the statements arbitrary. In making these statements, D.07-08-030 also violates both

[1] D.07-08-030 at 35-36.

[2] D.07-08-030 at 37.

procedural and substantive due process. The specific language related to these issues (identified in Section II.A below) must therefore be eliminated from the decision.

D.07-08-030 was mailed on August 24, 2007; this Application for Rehearing is therefore timely filed.

I. BACKGROUND

This proceeding was bifurcated into two phases, with the first phase addressing the revenue requirement for Cal-Am's Los Angeles district and other issues, and the second phase addressing rate design. In addressing Phase I issues, D.07-08-030 adopts a partial settlement between Cal-Am and DRA regarding revenue requirement, with some modifications, and resolves issues that were in dispute, including whether Cal-Am's return on equity (ROE) should be reduced if the Commission adopts a proposed settlement on rate design in Phase II.[3] While the Commission has not yet adopted a decision addressing Phase II issues, parties filed testimony and an evidentiary hearing was held. In addition, Cal-Am and DRA submitted a proposed "Settlement Agreement as to Rate Design Issues" (Phase II Settlement).[4]

In the proposed Phase II Settlement, Cal-Am and DRA negotiated a rate design for the Los Angeles district that would implement seasonal conservation rates for all customers such that the quantity rates in the summer would be higher than those at other times during the year.[5] In addition, the proposed Phase II Settlement would adopt two regulatory accounting mechanisms: (1) a Water Revenue Adjustment Mechanism (WRAM)[6] that is intended to decouple revenues from sales by ensuring recovery of the

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[3] The two other issues that were in dispute were (1) whether or not an infrastructure program proposed by Cal-Am should be adopted, and; (2) whether Cal-Am should be penalized for certain notice violations, and if so, by what amount.

[4] The settlement agreement was served on all parties on December 22, 2007 and was entered into evidence during evidentiary hearings on January 9, 2007, but was not filed with the Commission's Docket Office. Exh. 74 (Settlement Agreement As To Rate Design Issues Between The Division Of Ratepayer Advocates And California-American Water Company dated December 22, 2007) (Phase II Settlement).

[5] *See* Exh. 74 (Phase II Settlement) at 2-3, 6-7. Residential customers would also have "inverted block rates" (also known as "inverted quantity rates" and "tiered rates") in which the quantity rate increases as consumption amounts increase. *Id.* at 7.

[6] Exh. 74 (Phase II Settlement) at 7-8. In actuality, each of the three service areas in the Los Angeles

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company's fixed costs,[7] and; (2) a Modified Cost Balancing Account (MCBA)[8] that is intended to ensure that the variable cost recovered corresponds to that incurred by the utility as opposed to that assumed when the rates were adopted. The MCBA ensures that ratepayers receive the benefit of any decreases in water production costs when conservation occurs.[9] With regard to the ROE impact of the Phase II Settlement, DRA urged the Commission to decrease Cal-Am's ROE by between156 basis points and 328 basis points if the Phase II Settlement is adopted.[10] Cal-Am argued that no ROE adjustment is appropriate.

Rather than associating a specific ROE adjustment with the regulatory accounting mechanisms and conservation rate design in the proposed Phase II Settlement, the Commission determined in the decision on Phase 1 (D.07-08-030) that it would not be appropriate to adopt the proposed WRAM in this rate case. D.07-08-030 states that:

> …it would be premature to approve a WRAM in one company's GRC. The goals of conservation and methods to reduce the financial risk associated with conservation are industry-wide issues and therefore should be discussed in an industry-wide proceeding.

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District would have its own WRAM. DRA uses the convention of referring to these balancing accounts as a singular concept, "a WRAM," rather than referring to the accounts in the plural form. *Id.* at 7 (Section V.B).

[7] Cal-Am believes that the existing regulatory structure provides disincentives for the company to fully encourage conservation practices because, as a general matter, its revenues increase as the amount of water sold increases. By "decoupling" sales from revenues, this mechanism is intended to remove the perceived disincentives. *See, e.g.,* Exh.7 (Direct/Stephenson) at 13-14.

[8] Exh. 74 (Phase II Settlement) at 8-9. As with the WRAM, each service area in the Los Angeles District would have an MCBA for purchased power and an MCBA for purchased water, however DRA refers herein to the concept of "an MCBA" in the singular form. *Id.* at 8 (Section VI.B).

[9] MCBAs would replace the existing cost balancing accounts for purchased power and purchased water, which only track cost variations due to changes in unit price. MCBAs would track cost variations due to changes in both unit price and consumption. Exh. 74 (Phase II Settlement) at 8 (Section VI.A and C). These variable costs are thus "passed through" to ratepayers in that Cal-Am recovers only its actual production costs. Thus, if lower water sales results in lower production costs than forecasted, ratepayers benefit through the MCBA, and the converse it true.

[10] Exh. 49 (Supplement to DRA Cost of Capital Report) at 8.

> We note that the WRAM as proposed is wider than a purely conservation loss adjustment. The next section indicates our preference for an adjustment mechanism that is narrower than the proposed WRAM.[11]

D.07-08-030 "encourages" the parties to negotiate a different regulatory accounting mechanism – a "conservation loss adjustment mechanism [CLAM] that is focused solely on cost under- and over-recovery caused by [the Commission's] conservation policies."[12] Decision 07-08-030 then expresses a "policy preference" for a CLAM, and concludes that no ROE adjustment would be necessary if a CLAM were adopted.[13]

II. D.07-08-030 CONTAINS STATEMENTS THAT ARE LEGAL ERROR AND MUST BE REMOVED

A. Legally Erroneous Statements in D.07-08-030

DRA does not question the Commission's power to encourage parties to consider and negotiate alternate mechanisms. D.07-08-030 goes beyond this, however. In the text of the decision, the Commission unambiguously adopts conclusions that (1) advocate the use of a specific regulatory accounting mechanism, a CLAM, to the exclusion of the parties' proposed WRAM, and (2) determine that a CLAM should be considered to have no impact on a company's ROE. These conclusions violate DRA's due process, are arbitrary and capricious, and are not supported by the necessary findings.

The problematic statements in D.07-08-030 include the following:

> We prefer this approach because it directly supports our conservation goals and it will not require continuous litigation of an ROE adjustment. [footnote omitted] Such a mechanism should provide:
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> a. A balancing account in which to record the undercollection or overcollection of authorized fixed costs due to differences caused by the adoption of a Phase 2 conservation rate design;

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[11] D.07-08-030 at 34-35.

[12] D.07-08-030 at 35.

[13] D.07-08-030 at 37.

b. A clear methodology for tabulating and verifying changes in water volume sales due to conservation measures;

c. A recovery mechanism for fixed cost under-recovery from customer usage reductions directly attributable to new conservation programs implemented by Cal-Am in the test period.[14]

D.07-08-030 then concludes:

> For the reasons discussed here, a Phase 2 adoption of a conservation loss adjustment mechanism (CLAM) rather than the proposed WRAM is the Commission's policy preference for Cal-Am's Los Angeles District pilot conservation program. If Cal-Am and DRA modify their pending Phase 2 settlement to replace the proposed WRAM with a conservation loss adjustment mechanism that meets the criteria discussed here, an ROE adjustment would not be necessary.[15]

These legally erroneous conclusions must be eliminated from D.07-08-030, and are not be mitigated by a much later statement in the decision that characterizes "the discussion of the CLAM" as "mainly for illustrative purposes for the reader to understand the issue."[16]

B. The CLAM-Related Conclusions in D.07-08-030 Are Not Supported By The Record

The concept of a CLAM as an alternative mechanism for "decoupling" water sales from revenue first appeared in this proceeding in a revision to the Proposed Decision of Administrative Law Judge Walwyn (PD).[17] The same language regarding a CLAM was carried forward in the Alternate Draft Decision of President Peevey (Alternate).[18] As

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[14] D.07-08-030 at 35-36.

[15] D.07-08-030 at 37.

[16] D.07-08-030 at 61.

[17] Proposed Decision of ALJ Walwyn (mailed on May 7, 2007, and revised on June 13, 2007) at 43-46, 55 (FOFs 17-18) and 57 (COL 8). The original Proposed Decision was revised after parties had already filed their comments. Comments were filed on the 5/7/07 PD on May 29, 2007, and Reply Comments on the 5/7/07 PD on June 4, 2007.

[18] Alternate Draft Decision of President Peevey (July 24, 2007) at 34-37, 46 (FOFs 17-18) and 47 (COL 7). With regard to the multiple versions of the recommended decisions, this is DRA's understanding of

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DRA discussed in its Comments and Reply Comments on the Alternate, the evidentiary record does not contain any reference to either the CLAM or the ROE impact of a CLAM.[19] CAW did not propose a CLAM in its application, no party submitted testimony on a CLAM, and a CLAM was not raised during evidentiary hearings.[20] As neither a CLAM nor any mechanism similar to a CLAM was discussed in this proceeding, neither was the impact of a CLAM on ROE. Given this lack of evidentiary support, the Commission's statements (identified above)[21] expressing approval of a CLAM and drawing a conclusion about the ROE impact of a CLAM are therefore arbitrary and capricious.

What distinguishes a CLAM from the "full" WRAM proposed in the Phase II Settlement is what the adjustment mechanism tracks. With the CLAM described in D.07-08-030, parties would try to measure and track the decrease in water consumption that is caused solely by new conservation rates, as opposed to other causes such as weather, customer-specific lifestyle changes, etc. With a WRAM, a more holistic view of overall changes in consumption (regardless of cause) is taken to protect utility revenues. The question of how to precisely measure how conservation rates affect consumption – an effort that DRA has noted is problematic[22] – was never raised in this proceeding, much less addressed in any substantive manner. There are no citations to any discussion in the

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the timeline and the major modifications to the drafts: 5/7/07 – ALJ Walwyn issues a Proposed Decision. 6/13/07 – ALJ Walwyn revises her Proposed Decision adding a section on a CLAM, and inadvertently leaving out the section on ISRS ("Rev. 3" appears in upper right-hand corner). 7/24/07 – President Peevey issues an Alternate Draft Decision which makes the following changes to the Proposed Decision: removes some ROE discussion relating to WRAM; leaves CLAM section in, and; inadvertently leaves out the section on ISRS. 8/9/07 - Drafts of both the Walwyn PD ("Rev. 4") and the Peevey Alternate are released to add back into the drafts the section on ISRS.

[19] Comments Of The Division Of Ratepayer Advocates On The 7/24/07 Alternate Proposed Decision (August 13, 2007) (DRA Comments on Alternate) at 8-9 (Section III.B); Reply Comments Of The Division Of Ratepayer Advocates On The 7/24/07 Alternate Proposed Decision (August 20, 2007) (DRA Reply Comments on Alternate) at 1-2 (Section I) and 5 (Section V).

[20] *Id.*

[21] *Supra* at Section II.A.

[22] DRA Comments on Alternate at 5-7 (Section III.A); DRA Reply Comments on Alternate

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record regarding ways to identify how a change in water sales can be directly attributed to the change in the rate structure.[23]

It is not enough that the record contains discussion of a decoupling mechanism generally. The parties engaged in extensive discussion and negotiations to craft the regulatory mechanisms of WRAM and a modified cost balancing account (MCBA) in the proposed Phase II Settlement. The details of such regulatory mechanisms can vary considerably, and both can arguably affect a company's risk profile.[24] In terms of different kinds of mechanisms, examples are in the record of the Conservation OII (I.07-01-022) in which the Commission is considering the adoption of conservation rate designs for Class A utilities. DRA and Suburban Water Systems (Suburban) recently entered into a settlement agreement that would implement a different kind of WRAM than that in the proposed Phase II Settlement.[25] In the same proceeding, however, DRA also entered into settlement agreements with California Water Service Company (CWS) and Park Water Company (Park) for both WRAMs and MCBAs that closely parallel those proposed in the Phase II Settlement for Cal-Am's Los Angeles District.[26] The

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at 2 (Section II).

[23] In fact, DRA discussed in its comments that it is not possible to identify a causal relationship between a change in rate design and a decrease in consumption, and the estimates that would instead have to be developed would be time consuming and likely the subject of much contention. DRA Comments on Alternate at 5-7 (Section III.A); DRA Reply Comments on Alternate at 2 (Section II). Had DRA had a meaningful opportunity to comment on the proposal, these are just some of the issues that DRA would have raised.

[24] *See* Opening Brief of the Division Ratepayer Advocates (July 31, 2006) at 21-26.

[25] The Suburban WRAM would not ensure recovery of the company's fixed costs, and thus would not fully decouple sales and revenue. *See, e.g.,* Motion of the Division of Ratepayer Advocates and Suburban Water Systems to Approve Settlement Agreements (April 24, 2007) in I.07-01-022 (Motion to Adopt Suburban Settlements) at 10, 13-14. In addition, DRA and Suburban did not propose an MCBA, thus leaving Suburban's current balancing accounts untouched. *Cf.* Motion of The Utility Reform Network, the Division of Ratepayer Advocates, and California Water Service Company To Approve Amended Settlement Agreement (June 15, 2007) in I.07-01-022 (Motion to Adopt CWS Settlement) at 14-15.

[26] Amended Settlement Agreement between The Utility Reform Network, the Division of Ratepayer Advocates, and California Water Service Company (June 15, 2007) in I.07-01-022 at 8-11, filed as an attachment to Motion to Adopt CWS Settlement. Settlement Agreement between the Division of Ratepayer Advocates and Park Water Company on WRAM and Conservation Rate Design Issues (June

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evidentiary hearings that were held in Phase 1A of the Conservation OII illustrated how the way these mechanisms actually function, and the overall impact these mechanisms have on shareholders and ratepayers, can be complicated and controversial.[27]

DRA does not question the Commission's power to adopt a policy preference if there is evidence of what the alternate mechanism is and how it would work. Similarly, DRA does not question the Commission's power to conclude that the alternate mechanism would not require an adjustment to ROE if there is evidence on the issue. However, because D.07-08-030 contains no evidence supporting adoption of either of these positions, the statements relating to these issues must be eliminated from the decision.

C. D.07-08-030 Violates DRA's Due Process Rights

In addition to making statements regarding a CLAM and the related ROE impact without any bases in the record, D.07-08-030 reaches its conclusions without affording DRA a meaningful opportunity to comment on the issues, violating both substantive and procedural due process.

The U.S. Supreme Court has found that "[t]here must be due notice and an opportunity to be heard, the proceedings must be consistent with the essentials of a fair trial and the Commission must act upon the evidence and not arbitrarily."[28] While substantive due process thus requires that the Commission base its decisions on the evidence, the Commission failed to do so with regard to a CLAM, as discussed above, rendering its statements regarding a CLAM arbitrary and capricious, and a violation of substantive due process.

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15, 2007) at 4-6, filed as an attachment to the Motion of the Division of Ratepayer Advocates and Park Water Company To Approve Settlement Agreement (June 15, 2007) in I.07-01-022. *Cf.* Exh. 74 (Phase II Settlement) at 7-8 (Sections V and VI).

[27] *See, e.g.,* in I.07-01-022, 2 RT 142-146 (Park Water/Jackson); The Consumer Federation of California's Comments on Settlement Agreement Between DRA, TURN and Cal Water Service Company (June 27, 2007) in I.07-01-022 at 8-11; Motion of the Division of Ratepayer Advocates and Park Water Company to Approve Settlement Agreement (June 15, 2007) in I.07-01-022 at 10-13.

[28] *Railroad Comm. of Cal. v. P.G.&E*, (1938) 302 U.S. 388, 393 (citations omitted).

Procedural due process requires "adequate notice to the party affected and an opportunity to be heard before a valid order can be made."[29] As discussed above, the CLAM was first raised in this proceeding in a revision to a proposed decision.[30] The parties' only opportunity to be heard on CLAM issues then arose in comments on the Alternate Draft Decision.[31] "The phrase 'opportunity to be heard' implies at the very least that a party must be permitted to prove the substance of its protest rather than merely being allowed to submit written objections to a proposal."[32] The Commission rules limit the content of draft decision comments and thus do not provide parties with an opportunity to discuss the substance of their protest.[33] Furthermore, the ROE impact of a CLAM is a material issue of fact that would require hearings.[34] Thus, by expressing a policy preference for a CLAM and determining that adoption of a CLAM will not require an adjustment in ROE, without reopening the proceeding for the submission of additional evidence, the Commission failed to provide parties with a forum for meaningful participation.

Because the Commission did not provided parties with notice and a meaningful opportunity to be heard on the CLAM and related ROE issues, rehearing should be granted to remove from D.07-08-030 the above-identified statements.[35]

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[29] *People v. Western Airlines Inc.,* (1954), 42 Cal.2d. 621, 632.

[30] *Supra* at Section II.B.

[31] *Id.*

[32] *California Trucking Assn. v. Public Utilities Com.*, (1977) 19 Cal.3d 240, 244.

[33] Comments on a draft decision are limited to legal, factual and technical errors and are limited in page length. Rule 14.3. Commission rules prohibit parties from raising policy arguments against the proposal in their draft decision comments and parties are barred from providing new factual information in support of their position. Moreover, Rule 14.3 of the Commission's Rules requires parties to make specific reference to the record when raising factual, legal or technical errors in the draft decision. However, in this case there was no record to cite to object to the proposed policy statements relating to the CLAM. Parties must be given a meaningful opportunity to participate and comment on these issues, and comments on a draft decision do not provide such an opportunity.

[34] In the Conservation OII, the Commission concluded that the impact of the proposed WRAMs on ROE merit evidentiary hearings (currently scheduled for November 2007). Administrative Law Judge's Ruling Modifying Phase 1B Schedule (August 30, 2007) at 3.

[35] *Supra* at Section II.A.

D. The Commission Must Eliminate The CLAM-Related Statements Just As It Eliminated The Unsupported Findings Of Fact And Conclusions Of Law

Decision 07-08-030 does not contain any findings of fact or conclusions of law supporting either the policy preference for a CLAM or the conclusion that no ROE adjustment need be associated with a CLAM. Public Utilities Code § 1705, however, requires Commission decisions to contain separately stated findings of fact and conclusions of law on all issues material to the decision. Furthermore, the California Supreme Court has stated:

> Findings of fact are essential to 'afford a rational basis for judicial review and to assist the reviewing court to ascertain the principles relied on by the commission and to determine whether it acted arbitrarily, as well as to assist parties to know why the case was lost and to prepare for rehearing on review, assist others planning activities involving similar questions and serve to help the commission avoid careless or arbitrary actions.'[36]

In fact, the Revised PD and the Alternate include findings of fact and conclusions of law that corresponded to the statements regarding the CLAM.[37] Yet, as discussed below, the Commission apparently only meant such statements to be "for illustrative purposes for readers to understand the issue,"[38] and thus the conclusions of law and findings of fact that would have supported the statements were explicitly removed from the final decision.[39] While the Commission's statements expressing the policy preference for a CLAM and establishing the ROE impact of a CLAM are clear and unambiguous, they were left untouched. Thus, the decision itself is internally inconsistent.

If the record had supported the Commission's policy conclusions, appropriate findings of fact and conclusions of law should be incorporated into the decision. Here, because the record does not support the policy conclusions, they must be removed from

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[36] *California Mfrs. Ass'n v. Public Utilities Commission,* (1979) 24 C.3d 251, 258-59, 155 Cal. Rptr. 664, 5995 P.2d 98 (citations omitted).

[37] PD at 55 (FOFs 17-18) and 57 (COL 8); Alternate at 46 (FOFs 17-18) and 47 (COL 7).

[38] D.07-08-030 at 61.

[39] D.07-08-030 at 61.

D.07-08-030. Thus, rather than detracting from the weight of the statements regarding a CLAM (discussed in Section II.A), which appears to have been the Commission's intention, removing the related conclusions of law and findings of fact instead actually exacerbates the inherent legal error in the decision.

Reaching conclusions and later attempting to dilute them by backing away with later disclaimers, as discussed below, and eliminating findings of fact and conclusions of law is not only inconsistent, but does a disservice to the both DRA and the water industry by offering a decidedly murky policy direction. Just as the Commission eliminated the unsupported findings of fact and conclusions of law, the Commission must eliminate the unsupported statements made about the CLAM in the text of the decision.

E. Stating That The CLAM Discussion Is "Mainly For Illustrative Purposes" Does Not Cure The Legal Error

In a section dedicated to discussing parties' comments on the proposed alternate decision, D.07-08-030 contains curious language purporting to further elucidate the Commission's intent in discussing a CLAM:

> The CLAM was suggested to encourage the development of conservation rates in Phase 2 of this proceeding. It is not a requirement that Cal-Am and DRA need to agree to a CLAM to move Phase 2 forward. However, if a CLAM can be negotiated, the rate design in Phase 2 is likely to proceed smoothly. *That said, it was not the intent to provide sweeping generalizations about the benefits of a CLAM.* We intended that the preference for a CLAM was limited to this GRC only, primarily for the benefit of ensuring an expeditious rate design phase.
>
> We leave unchanged the discussion of the CLAM *mainly for illustrative purposes for readers to understand the issue.* However, based upon DRA's comments *we modify a Finding of Fact and a Conclusion of Law to delete a statement regarding any policy preference and statements regarding the lack of a need for downward ROE adjustments. We do so to remove even the appearance of prejudging this issue prior to an industry-wide debate on this matter.*[40]

[40] D.07-08-030 at 61 (emphasis added).

While stating that the Commission is not "prejudging" the CLAM-related issues,[41] D.07-08-030 does just that by explicitly expressing a preference for a CLAM, and by determining that the mechanism would not require ROE adjustment, in earlier text. In fact, there is no way to conform or make coherent the earlier conclusions regarding the CLAM with the later protestations in the discussion of comments on the Alternate because they are contradictory. When the Commission states, "We prefer [a CLAM] because it directly supports our conservation goals and it will not require continuous litigation of an ROE adjustment," there is no other interpretation except that the Commission has concluded that the elements of its described CLAM are preferable to the WRAM proposed by the parties. Similarly, when the Commission states that "an ROE adjustment would not be necessary" if the CLAM described in the decision is proposed,[42] the Commission has unambiguously made a determination that, if it adopts a CLAM, it will not adopt an ROE adjustment.

Just as the Commission cannot adopt these conclusions without appropriate findings of fact and conclusions of law, the Commission cannot appear to adopt these conclusions in one part of a decision, only to suggest later in the decision that the statements were merely "illustrative." Thus, while D.07-08-030 disclaims any intent to "provide sweeping generalizations about the benefits of the CLAM,"[43] the disclaimer, appearing as it does in the last section of the decision where comments on the Alternate Draft Decision are discussed, cannot be reconciled with earlier statements about the CLAM and is legally insufficient.

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[41] D.07-08-030 at 61.

[42] D.07-08-030 at 37.

[43] D.07-08-030 at 61.

III. CONCLUSION

The Commission must grant rehearing of Decision 07-08-030 because the Commission arbitrarily, on the basis of no record, and without providing parties with notice and an opportunity to comment, adopted a policy preference for a specific regulatory accounting mechanism (a Conservation Loss Adjustment Mechanism or CLAM), as well as the conclusion that such a mechanism does not require an ROE adjustment.

Respectfully submitted,

/s/ Natalie D. Wales

Natalie D. Wales
Staff Counsel

Attorney for the Division of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 355-5490
Fax: (415) 703-2262
ndw@cpuc.ca.gov

September 24, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **APPLICATION OF THE DIVISION OF RATEPAYER ADVOCATES FOR REHEARING OF DECISION 07-08-030** in **A.06-01-005** by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[ ] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on September 24, 2007 at San Francisco, California.

/s/ Nelly Sarmiento

Nelly Sarmiento

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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SERVICE LIST – A.06-01-005

tkim@rwglaw.com
gkau@cityofinglewood.org
councilofficedistrict2@cityofinglewood.org
creisman@wkrklaw.com
krozell@wkrklaw.com
bmarticorena@rutan.com
uwua@redhabanero.com
dalderson@rwglaw.com
ndw@cpuc.ca.gov
ldolqueist@steefel.com
pschmiege@schmiegelaw.com
dstephen@amwater.com
darlene.clark@amwater.com
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sdlee3@pacbell.net
jmarkman@rwglaw.com
Pinkie.L.Nichols@KP.Org.
jvasquez@cityofbradbury.org
jhawks_cwa@comcast.net
lweiss@steefel.com
jguzman@nossaman.com
mmattes@nossaman.com
sferraro@calwater.com
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Martina@akwater.com
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ywc@cpuc.ca.gov